

Serial No. 09/784,488

REMARKS

Applicants have timely filed, and the Examiner has acknowledged, a request for continued examination on February 13, 2004. Subsequently, Applicants are responding to the Office Action dated February 23, 2007. The Examiner has rejected all pending claims 1, 5, 7-9, 11, 13, 16-18, 20, 21, 23-25, 27, 28, 30-35, 37-41, 43, 44, 46, 47, 50, 51, 53, 54, 57, 61, and 63-65. In this Response, Applicants amend claims 1, 7-9, 13, 16, 20, 21, 61 and 63, cancel claims 2-4, 6, 10, 12, 14, 15, 17-19, 22-60 and 62, and add new claims 66-70. Support for the amendments is found in the originally-filed specification, claims, and figures. No new matter has been added. Upon entry of the foregoing amendments, Applicants respectfully request reconsideration of pending claims 1, 5, 7-9, 11, 13, 16, 20, 21, 61, 63, and new claims 66-70 (3 independent claims, 17 claims total) in light of the following Remarks.

Claim Rejections

§112 Rejections

Claims 1, 5, 7-9, 11, 13, 16-18, 20, 21, 23-25, 27, 28, 30-35, 37-41, 43, 44, 46, 47, 50, 51, 53, 54, 57, 61 and 63-65 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that new matter has been introduced in the claims via previous amendment filed October 11, 2006. Applicants respectfully traverse this assertion. Additionally, claims 17, 18, 23-25, 27, 28, 30-35, 37-41, 43, 44, 46, 47, 50, 51, 53, 54, 57, 64, and 65 have been canceled. Accordingly, Applicants request withdrawal of any rejections of these claims.

More particularly, the Examiner incorrectly asserts that there is no support in the specification for the employment of the phrases "different in ... firmness" and "the firmer portion providing support to the other portion when both portions are extended from the container. Applicants again submit, and have amended the claims to recite the specification verbatim, that support for the presently recited claims, "one portion is firmer than, and provides support for, the other portion," is found in paragraph 6 of Applicant's specification.

Additionally, the Examiner incorrectly asserts that due to the lack of description regarding differentiation of firmness between the first and the second composition, a person of reasonable skill in the art would not be enabled to practice the presently recited invention. Applicants submit that one of reasonable skill in the art, at the time of Applicant's disclosure,

Serial No. 09/784,488

would understand that there exist a variety of ways to change/alter firmness disclosed within Applicant's specification. Furthermore, said person of reasonable skill in the art would be taught and enabled by the disclosure in Applicant's specification to produce a product for underarm application with a first and a second composition with differing firmnesses as presently recited.

For example, it is well-known in the chemical arts that firmness or hardness is affected by the density of crystal packing within a given compound. Typically, as one of skill in the art will recognize, firmness can be manipulated by addition of compounds, which increase the overall packing density of the deodorant including, but not limited to a silicone, a paraffinic hydrocarbon, and/or a gelling compound. First, numerous non-volatile, highly viscous silicone copolymer species suitable to increase the packing density, thereby increasing firmness, of either the first or second composition are recited in paragraph 54 of Applicant's specification. Similarly, paragraph 57 discloses long chained paraffinic hydrocarbons including, but not limited to polyethylene glycol (PEG), which is commonly used as a thickener to manipulate firmness.

In furtherance of the Examiner's rejection under 35 U.S.C. § 112, first paragraph, the Examiner incorrectly states that "all examples in the specification describe compositions which differ only in coloring and/or fragrancng ingredients." However, Applicants submit that Examples 1-5 are merely exemplary embodiments of the Applicant's invention and that due to the requisite understanding within the state of the art at the time of filing, it was and is not required to provide an Example for each and every feasible exemplary embodiment. Accordingly, one of reasonable skill in the art at the time of filing would be enabled by the Applicant's specification to produce a product for underarm application with a first and a second composition with differing firmnesses as presently recited, and Applicants respectfully request withdrawal of all current rejections of the pending claims.

Serial No. 09/784,488

CONCLUSION

Applicants respectfully submit that the application is in condition for examination on the merits, and that the claims as amended are patentable. Applicant respectfully requests allowance of all pending claims. The Examiner is invited to telephone the undersigned at (602) 382-6301 at the Examiner's convenience, if that would help further prosecution of the subject Application.

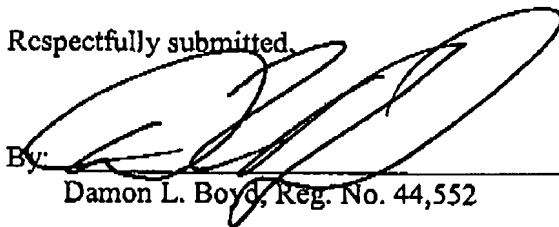
The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814 for which a duplicate copy of this sheet is attached. This statement does NOT authorize charge of the issue fee.

Respectfully submitted,

Dated:

16 May 2007

By:


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